

FOR THE

SOUTHERN DISTRICT OF GEORGIA
Waycross Division

IN RE: SEGA BIOFUELS LLC)	CHAPTER 11 CASE
)	NUMBER <u>13-50694</u>
Debtor)	
)	
<u>THE HERITAGE BANK</u>)	
)	
Plaintiff)	
)	
vs.)	ADVERSARY PROCEEDING
)	NUMBER <u>13-05008</u>
)	
SEGA BIOFUELS LLC)	
)	
Defendant)	

ORDER DENYING REQUEST FOR
ENTRY OF TEMPORARY RESTRAINING ORDER

The Heritage Bank, a secured creditor in the underlying chapter 11 case, seeks a temporary restraining order (TRO) against Debtor SEGA Biofuels LLC, "enjoining Defendant [SEGA] from further destruction and conversion of Heritage Banks' tangible collateral and cash collateral." (ECF No. 1 at 8.) The request for a TRO is denied because Heritage failed to comply with the requirements for issuance of a TRO under Rule 65 of the Federal Rules of Civil Procedure.¹

The court may issue a TRO without notice to the adverse party or its attorney only if:

¹ Rule 65 of the Federal Rules of Civil Procedure is made applicable in adversary proceedings by Rule 7065 of the Federal Rules of Bankruptcy Procedure.

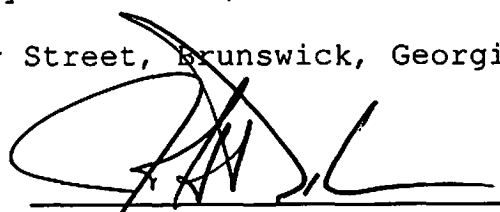
(A) specific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition; and

(B) the movant's attorney certifies in writing any efforts made to give notice and the reasons why it should not be required.

Fed. R. Civ. P. 65(b)(1)(A)-(B). Here, Heritage failed to comply with subsection (b)(1)(B), not having certified any efforts to give notice to SEGA and any reason why notice should not be required.

The request for a TRO is therefore **ORDERED DENIED** and

FURTHER ORDERED that a hearing on the request for a preliminary injunction will be held on Tuesday, December 3, 2013, at 2:00 p.m., in the Bankruptcy Courtroom, third floor of the Federal Building, 801 Gloucester Street, Brunswick, Georgia.



JOHN S. DALIS
United States Bankruptcy Judge

Dated at Brunswick, Georgia,
this 20th day of November, 2013.